SUPREME COURT, U.S.
FILED

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IN THE

SUPREME COURT OF THE UNITED STATES

October Term, 1998

MICHAEL M. SHERMAN,

Petitioner,

vs.

STATE BAR OF CALIFORNIA,

Respondents.

ON PETITION FOR WRIT OF CERTIORARI
AFTER A DECISION BY THE
SUPREME COURT OF CALIFORNIA

A SUPPLEMENTAL APPENDIX TO THE PETITION

MICHAEL M. SHERMAN
23777-9 Mulholland Hwy
Calabasas, CA 91302
(818) 591-8567

July 13, 1998

(SEAL NOTED) OFFICE OF THE CHIEF TRIAL COUNSEL
QUALITY ASSURANCE AND ASSESSMENT

1149 SOUTH HILL STREET,
LOS ANGELES, CALIFORNIA 90015-2299
(213)765-1000

November 26, 1997

PERSONAL AND CONFIDENTIAL

Michael M. Sherman
1002 17th Street
Santa Monica, CA 90403

RE: Case No: 95-0-13636 and 95-0-13637
Respondents: John F. Klopfenstein and
Michael R. Polin

Dear Mr. Sherman:

Please be advised that pursuant to your request, your complaint file against the two above-mentioned attorneys received another evaluation which was conducted by the Quality Assurance and Assessment Unit of the Office of the Chief Trial Counsel. A determination has been made that the matter should remain closed

at this time.

Your complaint against your former attorneys Klopfenstein and Polin alleged their failure to perform competently in your civil lawsuit entitled Michael Sherman v. Jerome Sherman, Mrs. Pat Plascentia, et. al.. Additionally, you indicated that you were coerced into settling the lawsuit and you also felt that there were conflicting interests based on the relationship with opposing counsel, George DeRoy. There is nothing contained in the documents provided which indicates any collusion with Mr. DeRoy and the fact that he might have been willing to appear as a witness for Klopfenstein and/or Polin in a malpractice action against them is not inappropriate from an ethical standpoint. You have not filed a complaint against Mr. DeRoy, however, this allegation of conflict of interest was addressed by the Court of Appeal.

Although you have raised several questions regarding what you have basically characterized as poor performance on the part of these two attorneys, please understand that in contemplating whether disciplinary charges are warranted for ethical violations, there must be sufficient evidence which proves the professional misconduct to a clear and convincing level. Even though there may have been instances where you disagreed with certain discretionary decisions and other circumstances where you have alleged

negligence on the part of Klopfenstein and Polin based on lapses in judgment and failing to protect your interests, at this time there is insufficient proof to forward this matter for prosecution. This is not meant to indicate that you do not have potentially viable civil remedies. It is suggested you consult with your attorney regarding possible actions.

You have indicated in recent correspondence that you are in the process of seeking relief by way of a Petition for Review to the Supreme Court. While I recognize that you may still disagree with the decision that the disciplinary file remain closed, you do have an opportunity to seek further review of this decision by filing a verified accusation against the attorney with the Supreme court of California. Under certain limited circumstances, the Court may order the attorney to appear and answer the charges against him or her.

If you wish to file an accusation with the Supreme Court , you must do so within sixty (60) days from the date of this letter, pursuant to rule 952, subsections (d) through (f) of the California Rules of Court.

Should you desire further information regarding the procedures utilized by the Supreme Court, please contact the Supreme Court Second Floor, Room 2752, Los Angeles, California 90017, telephone number

(213) 897-5158; or in San Francisco, located at 3030 Second Street, South Tower, Eighth Floor, San Francisco, California 94107, telephone number (415) 396-9400.

Should you prevail with the Supreme Court on either the Petition for Review or in the In Re Walker petition as described above, please contact the State Bar immediately and your matter will be reconsidered. In the meantime, I want to thank you for the patience and cooperation you have displayed during the pendency of this matter and I wish you good luck in the further proceeding in your case.

Sincerely,

\S\

Murray B. Greenberg
Deputy Trial Counsel

SEAL NOTED

THE STATE BAR OF CALIFORNIA
OFFICE OF THE CHIEF TRIAL COUNSEL INTAKE

1149 SOUTH HILL STREET, LOS ANGELES, CALIFORNIA 90015-2299
(213) 765-1000
FAX (213) 765-1168
TDD # (213) 765-1566

May 14, 1998

H. Edward White
3215 Sparr Blvd
Glendale CA 91208

RE: Michael Sherman

We have received your correspondence of May 7, 1998.

Mr. Sherman's complaints against John F. Klopfenstein and Michael R. Polin were previously evaluated and the determination made that there was in sufficient evidence to show misconduct. The file received another evaluation, at Mr. Sherman's request, and it was decided the file would remain closed. Mr. Sherman was advised of the State Bar's decision in a letter dated November 26, 1997. I have enclosed a copy of that letter.

The State Bar cannot reopen Mr. Sherman's complaints unless he prevails either with a Petition for Review or In Re Walker petition with the Supreme Court of California. The time period for filing either petition appears to have passed and we have not received any information that Mr. Sherman prevailed with a petition. As such, the file remains closed.

There will be no further response to correspondence concerning Mr. Sherman's complaints.

Respectfully,

\S\

Joy Nunley
Complaint Facilitator

enclosure

PROOF OF SERVICE

STATE OF CALIFORNIA, COUNTY OF LOS ANGELES

I am employed in the County of Los Angeles, State of California. I am over the age of 18 and not a party to the within action; my business address is 12548 Ventura Blvd, Studio City CA 91604

On July 16, 1998 I served the following document(s) described as SUPPLEMENT APPENDIX TO PETITION FOR WRIT CERITIORARI WHICH INCLUDES THE DECISIONS OF THE STATE BAR OF CALIFORNIA DATED NOVEMBER 26, 1997, AND MAY 14, 1998, on all interested parties in this action by placing a true copy thereof enclosed in a sealed envelope with postage thereon fully prepaid in the United States mail at Los Angeles, California, addressed as follows:

The State Bar of California
1149 S. Hill St.
Los Angeles, CA 90015

CALIFORNIA SUPREME COURT
300 S. Spring St., Fl 2
Los Angeles, CA 90013

I declare under penalty of perjury that the foregoing is true and correct.

Executed on July 16, 1998, at Los Angeles, California.

Arnold Sarkisian

Arnold Sarkisian